

VUDU, Inc.

Terms of Service

These Terms of Service govern the use of VUDU, Inc.'s ("VUDU," "us," "we," or "our") service as described below (the "VUDU Service"). To agree to these Terms of Service, click "I agree" [below]. If you do not agree to these terms, do not click "I agree" and do not use the VUDU Service or our mobile application or web site, www.vudu.com (collectively, the "Website").

Changes to Terms of Service:

VUDU reserves the right, from time to time, with or without notice to you, to change these Terms of Service in its sole and absolute discretion. The most current version of the Terms of Service will supersede all previous versions. The most current version of these Terms of Service can be accessed by clicking on the "Terms of Service" link located at the bottom of the Website. You should periodically visit the Terms of Service page on the Website so you are aware of the terms and conditions that apply to your use of the VUDU Service and the Website. Your continued use of the VUDU Service and the Website will represent your acceptance of the most current Terms of Service.

Description of VUDU Service:

The VUDU Service is provided by VUDU, Inc. The VUDU Service is an Internet-based home entertainment service that provides access to a library of movies, images, television shows, artwork and/or other episodic content ("Content") through your computer or mobile device, your Internet-capable television and/or a proprietary device manufactured by VUDU or a third party who is licensed to incorporate the VUDU Service into its device(s) (collectively, the "VUDU Devices"). Please direct all questions regarding the VUDU Service to support@vudu.com.

VUDU reserves the right in its sole and absolute discretion to change how it operates the VUDU Service and the Website. You should not consider any description of how the VUDU Service works to be a representation or obligation with respect to how the VUDU Service will work in the future.

Activating the VUDU Service:

In order to access and use the VUDU Service, you must open an account online ("VUDU Account"). During online setup of your VUDU Account, these Terms of Service will be provided electronically. You can access a printable/downloadable version of these Terms of Service before selecting "I Agree" by visiting <http://www.vudu.com/termservice.html>.

VUDU Service Minimum Requirements:

YOU MUST HAVE HIGH-SPEED INTERNET CONNECTIVITY, A VUDU ACCOUNT AND A DEVICE COMPATIBLE WITH THE VUDU SERVICE TO USE THE VUDU SERVICE. You will be responsible for all costs associated with procuring and maintaining the Internet connectivity and device(s) necessary to access and use the VUDU Service, including but not limited to any internet connectivity, data transmission or airtime fees charged by internet service providers or mobile phone carriers while accessing the VUDU Service or Content. The VUDU Service is available only, and Content can be accessed only from, within the United States of America, including the District of Columbia and Puerto Rico.

You Can Rent or Purchase Content:

Currently, you can either "rent" or "purchase" Content through the VUDU Service. When you order Content for rental, you will be granted a non-exclusive, non-transferable limited license to access, use in accordance with any additional terms that may be provided with your VUDU compatible device, and view the Content within the applicable exhibition period. When you purchase Content, you will be granted a non-exclusive, non-transferable limited license to access, use in accordance with any additional terms that may be provided with your VUDU compatible device, and view the Content as often as you like subject to the applicable restrictions described below.

VUDU Credits/Promotional Codes:

From time to time, VUDU (or its partners) may offer VUDU credits or promotional codes which allow you to rent or purchase VUDU content. Such credits or promotional codes are intended for your use only and are not to be transferred or sold by you. VUDU reserves the right to restrict access to content redeemable with VUDU credits or promotional codes in the event of a violation of these Terms of Service.

Free Trial:

If you are a first-time user of the VUDU Service, you may be eligible for free VUDU movie credits to use to experience the VUDU Service. The credits will be valid for use for up to one month, or as otherwise specified when you sign up for your VUDU Account. To view any specific details about your VUDU movie credits, visit the Website and click on the "Your Account." Free credits provided to first time users may not be combined with any other offers. If you or another member of your household has opened a VUDU Account within the last 12 months, you may not be eligible to receive free credits.

Exhibition Period:

Exhibition periods for Content will vary depending on the method of purchase or rental and the Content being purchased or rented. When you purchase or rent Content, it is your responsibility to review any additional terms of use provided to you. Such additional terms of use may set forth restrictions upon your window of time to initiate viewing of content and, once initiated, the duration of time you have to complete viewing such Content. If no additional terms concerning timing and duration of viewing the Content are applicable to your order, then the following general terms may apply:

If you rent Content, you will typically have 30 days to initiate viewing. Once initiated, viewing must typically be completed within 24 hours or before the end of the 30th day from date of initiation, whichever occurs sooner.

If you purchase Content, you may view it for as long as you (i) are capable of accessing the VUDU Service, and (ii) maintain an active VUDU Account.

VUDU's authority to provide Content to you is subject to restrictions imposed by the movie studios and other distributors that make Content available to VUDU ("Content Providers"). These Content Providers may designate limited periods of time when VUDU is prohibited from renting, selling and/or streaming certain Content to you, including Content that you have previously purchased. You will be able to again rent, purchase and/or view such Content at the conclusion of these restricted periods.

If you have questions concerning the availability of Content that you have ordered, please contact VUDU at support@vudu.com.

Billing:

By using the VUDU Service, you are expressly agreeing that VUDU is authorized to charge you any applicable rental, subscription or purchase fees or taxes and any other charges you may incur in connection with your use of the VUDU Service to the payment method you provided during registration (or to a different payment method if you change your account information). The fees and charges for selected Content, applicable taxes and any other fees incurred will automatically be charged to your VUDU Account. Fees are payable only in U.S. dollars. VUDU may change the fees and charges in effect or add new fees and charges from time to time. There may be a temporary disruption of your access to the VUDU Service until VUDU can verify the validity of any new credit or debit card information. Pricing errors may occur on the Website. In the event of a pricing error, VUDU reserves the right to restrict your access to Content, with no further obligations to you, even after your receipt of Content or confirmation of Content availability. VUDU may, in its sole discretion, either contact you for instructions or restrict access to Content.

Cancellation and Refunds:

You may cancel your VUDU Account at any time by following the procedures outlined at <http://www.vudu.com/faq.html>. Any remaining cash balance in your VUDU Account will be refunded at that time. Any charges and fees paid for Content are non-refundable. [Any VUDU Credits you may have accrued are non-refundable.]

Content purchased on VUDU is nontransferable and will be deleted from your VUDU Device(s) and your VUDU Account upon cancellation of your VUDU Account. Cancellation of your VUDU Account will also terminate your access to Content that you have purchased and/or rented. Additionally, in the event of a refund (which VUDU may or may not grant in its sole discretion) for any other reason by VUDU other than termination or cancellation of your VUDU account, VUDU will terminate your access to any Content for which a refund was provided. Once your account has been closed, you will not be able to re-open your VUDU Account in the future.

Content Restrictions:

You understand and agree that the Content is licensed by VUDU from Content Providers. Copyrights in the Content are owned by the Content Providers and protected by the copyright laws of the United

States, as well as other intellectual property laws and treaties. Except as expressly provided herein, no right, title or interest in the Content is transferred to you. All Content is licensed, not sold, transferred or assigned to you. You have a limited right in the Content for personal, non-commercial use only on devices compatible with the VUDU Services. You may not edit, modify, copy, distribute, transmit, display, perform, reproduce, publish, license, translate, create derivative works from, transfer, alter, adapt, sell, rent, lease or sublicense any Content, or facilitate any of the foregoing. Without limiting the generality of the foregoing, you may not (i) show any Content to any public audience or view it in a public location; (ii) duplicate, reproduce, transfer, record or create copies of Content or any portion thereof (including, without limitation, by "burning," P2P file-sharing, posting, uploading or downloading) onto any physical medium, memory or device except as permitted herein, including without limitation, CDs, DVDs, VCDs, portable media devices, computers or other hardware or any other medium now known or hereinafter devised. You may not attempt to circumvent, avoid, bypass, remove, deactivate, impair or otherwise defeat any encryption, rights signaling or copy protection technology in which the Content is wrapped or otherwise associated. You may not decompile, copy, reproduce, reverse engineer, disassemble or otherwise reduce the computer file in which the Content is stored to a human-readable format. Any unauthorized copying or other activities that infringe upon the intellectual property rights of the Content Providers/owners of the Content is prohibited, and you expressly agree to the automatic termination of the VUDU Service if you engage in any infringing activities. Upon any such termination, the Content will be deleted from your VUDU Device(s). Except as specifically granted herein, all rights to the Content are reserved by the owner of such Content.

VUDU eGift:

VUDU eGifts are digital movies and TV programs that you buy as gifts for your friends. For more information about VUDU's eGift program, click here
<http://www.vudu.com/egiftingtermsandconditions.html>

InstaWatch:

You may have the opportunity to stream an electronic copy of eligible physical disc(s) purchased from participating stores via InstaWatch or purchased via Walmart.com. InstaWatch requires the following: a) a current and valid VUDU account (you may use your Wal-Mart.com credentials to register for a VUDU account) b) proof of registration of your Wal-Mart.com or VUDU account, as instructed by Wal-Mart upon purchase of any eligible physical disc(s); and (c) scanning your receipt containing the eligible DVD or Blu-ray Disc purchase into the Walmart.com application via either the Savings Catcher or InstaWatch section of the Walmart.com application or providing your phone number at checkout when you

purchase an eligible DVD or Blu-ray Disc (if available). Additionally, certain physical discs purchased may require you to register on a third party site or otherwise meet requirements of such third party sites (e.g., Ultraviolet™, Disney, etc.). We will not bill you for eligible digital downloads via InstaWatch but require you to maintain an accurate method of payment (i.e. current valid credit card) on file for other purchases you may make and for fraud prevention purposes.

In order to make InstaWatch available to you, we may need to request certain information from you during check-out at participating stores or on Walmart.com. We request this information to verify your participation in InstaWatch and to identify eligible disc purchases. Provision of such information is not required to complete your purchase but is necessary to allow you to redeem your electronic copy. To have InstaWatch available to you, you agree that Wal-Mart, its subsidiaries, affiliates, or other members of the Wal-Mart corporate family can share your DVD purchase information with VUDU, which is an affiliate of Wal-Mart, and that VUDU can share your purchase information with Wal-Mart and other Wal-Mart subsidiaries, affiliates, or other members of the Wal-Mart corporate family. If you purchased a physical disc at Walmart.com, order fulfillment times to receive your electronic copy may vary. An email will be sent to you after fulfillment of your order.

InstaWatch Returns:

In the event you watch any portion of the electronic copy provided to you as part of Instawatch, you will not be permitted to return any physical discs purchased by you even if such physical disc is unopened and in its original packaging and VUDU reserves the right to charge you a rental or ownership fee for such electronic copy. Similarly, if you return such physical disc prior to streaming the electronic copy, VUDU will revoke your access to such electronic copy.

Disc to Digital:

You may have the opportunity to convert your physical Blu-ray™ and DVD discs into electronic copies that may be stored and viewed through the VUDU Service via the Disc to Digital program. The Disc to Digital program is only available for physical Blu-ray™ and DVD titles that have been legitimately purchased and are presently owned by you. VUDU reserves the right to refuse conversion of a title, or to limit or cancel your access to a previously converted title, if VUDU reasonably believes the title does not meet, or no longer meets, the purchase and ownership criteria set forth in this paragraph.

UltraViolet™:

Your use of certain Content and programs through VUDU, including the Disc to Digital program, may require you to create an account with the UltraViolet™ content management service and link it to your VUDU Account. Please click on the following link to access more information on UltraViolet™, including the UltraViolet™ Terms of Use: www.uvvu.com.

Content Selection:

We will determine the selection, availability and quality of all Content provided on the VUDU Service. The selection, quality and availability of the Content offered can/may be unique to each VUDU Account and VUDU-compatible device. Not all Content on the VUDU Service is available at all times to all users. For example, Content that is available for rental may not be available for purchase and Content that is available for purchase may not be available for rental. Not all Content is appropriate for all users. If you are a parent, it is your responsibility to monitor the Content selections and viewing habits of your children. You can set certain parental controls in your account profile that allow you to control the availability of and/or access to certain Content.

Device Limits:

You may link up to five (5) VUDU Devices to your VUDU Account in order to view Content (each, a "Linked Device"), provided such Linked Device may only be linked to a single VUDU Account at a given time. [NOTE: Computers that stream content via the Internet are not required to be linked to your VUDU Account and will not be considered a "Linked Device"; provided, however that any computer that is used to download Content via the VUDU2Go service will require a link to your VUDU Account and will be considered a "Linked Device."] You may not concurrently stream or view content to more than two (2) Linked Devices at any given time.

VUDU Community/Your Personal Information:

VUDU offers you several ways to share your VUDU experience with others and interact with other members of the VUDU community through the Website and/or a VUDU Device (the "VUDU Community"). Because the features of the VUDU Community are always changing and improving, the

available features and information that is shared may change from time to time. These changes may take place without notice to you and may not be described in VUDU's Terms of Service. The VUDU Community is designed for you to share information with others.

THEREFORE, BY USING THE VUDU COMMUNITY FEATURE AND ALL RELATED FEATURES, YOU ACKNOWLEDGE AND AGREE THAT YOU ARE CONSENTING TO THE RELEASE OF INFORMATION ABOUT YOU TO A PUBLIC FORUM, INCLUDING OTHER MEMBERS OF THE VUDU COMMUNITY, USERS OF THE VUDU SERVICE AND OTHER VISITORS TO THE VUDU WEBSITE. IF YOU DO NOT WANT INFORMATION ABOUT YOU, INCLUDING PERSONALLY IDENTIFYING INFORMATION, TO BE SHARED IN A PUBLIC FORUM, DO NOT USE THE VUDU COMMUNITY FEATURES.

Use of the VUDU Community feature is for your personal, non-commercial use and is at your own option and risk. VUDU Community contains several different elements (e.g. blog, forum, etc.), each with its own degree of associated information sharing and features. These elements may change without notice to you, and the degrees of associated information sharing and functionality may also change without notice.

Customer Privacy:

VUDU collects and maintains personally identifiable information concerning our customers. This information includes, but is not limited to, billing records, maintenance and repair records, marketing information and customer feedback. VUDU maintains a privacy policy that may be accessed through our Website at: <http://www.vudu.com/privacypolicy.html>. We reserve the right to make changes to the privacy policy at any time and for any reason. As part of the information that may be shared under the privacy policy referenced above,

VUDU may share information with The Digital Entertainment Content Ecosystem, LLC, the provider of the UltraViolet™ content management service, regarding your usage (including streaming and downloading) of UltraViolet™-compatible Content.

Your Submissions:

If you send us any submissions (e.g. e-mails, letters, postings to chat rooms, boards or contests), feedback, creative suggestions, ideas, notes, drawings, concepts or other information through the VUDU Service, your VUDU Account or any social media account VUDU may maintain from time to time (e.g., Twitter, Facebook, etc.) (collectively, Submissions”), they will be deemed to be our property and we will not be liable for any use or disclosure of such Submissions. Without limitation of the foregoing, we shall exclusively own all now-known or hereafter existing rights to any and all Submissions of every kind and nature throughout the universe and shall be entitled to unrestricted use of the Submissions for any purpose whatsoever, commercial or otherwise, without compensation to the provider of the Submissions. The content of any Submissions must not be illegal, obscene, threatening, defamatory, invasive of privacy, infringing of intellectual property rights or otherwise injurious to third parties or objectionable and may not consist of or contain software viruses, political campaigning, commercial solicitation, chain letters, mass mailings or any form of “spam.” You may not use a false e-mail address, impersonate any person or entity or otherwise mislead as to the origin of the Submissions. We reserve the right (but not the obligation) to remove or edit any Submissions, but we do not regularly review posted Submissions.

Your Conduct on the VUDU Website:

By accessing the VUDU Website, you agree to use the VUDU Service, features and functionalities associated therewith, the Website and its content in accordance with all applicable laws, rules and regulations. In addition, you agree not to upload, post, e-mail or otherwise send or transmit any Submissions and/or other material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment associated with the VUDU Website. You also agree not to interfere with the servers or networks connected to the VUDU Website or the VUDU Service or to violate any of the procedures, policies or regulations of networks connected to the VUDU Website or VUDU Service. You also agree not to impersonate any other person while using the VUDU Website, VUDU Community and related features and that you will not conduct yourself in a vulgar or offensive manner while using the VUDU Service, Website or VUDU Community.

Account Access:

You are solely responsible for the activity on your VUDU Account, including, but not limited to, any and all purchases made from your VUDU Account, maintaining the confidentiality of your VUDU Account password and restricting access to your VUDU Device(s). You acknowledge and agree that you assume full responsibility for the conduct of those to whom you disclose your account information or password.

If you use a public or shared computer or unprotected mobile device, you should always log out at the end of each visit to the VUDU Website. As an additional security measure, the parental controls in your account management profile allow you to restrict purchasing through your VUDU Account by requiring that a passcode be entered prior to finalizing any purchase. If you believe that you may be victim of identity theft involving your VUDU Account, you should notify customer service and report any information about this instance to your card issuers and local law enforcement. VUDU reserves the right to place any account on hold at any time with or without notification to you in order to protect itself and its partners from what it believes to be fraudulent activity. VUDU is not obligated to credit or discount a membership for holds placed on the account by either a representative of VUDU or by the automated processes of VUDU.

Termination by VUDU:

We reserve the right to terminate your VUDU Account and/or your use and access to the VUDU Service at any time with or without cause. If your VUDU Service is terminated for any reason, your credit card will be refunded any U.S. dollar balance that remains in your VUDU Account. We have no obligation to refund fees paid for VUDU Devices [or any value, monetary or otherwise, you may have accrued as VUDU Credits].

Operational Limits/Force Majeure:

The provision of the VUDU Service is subject to the availability and the operational limitations of the requisite equipment and associated facilities. You understand and agree that temporary interruptions of the VUDU Service, including VUDU's ability to stream rented or purchased movies to you, may occur as normal events in the provision of the VUDU Service and that VUDU is not liable for such interruptions. You further understand and agree that VUDU is not liable for any failure of performance due to any cause beyond its reasonable control, including acts of God, fire, explosion, vandalism, terrorism, cable cut, major weather disturbance, national emergencies, riots, wars, labor difficulties, supplier failures, shortages, breaches, any law, order, regulation, direction, action or request by any government, civil or military authority, suspension of existing service in compliance with state and/or federal law, rules and regulations, or delays caused by you or your equipment.

Additional Restrictions:

You agree to configure VUDU Devices only in accordance with the user manual located at <http://www.vudu.com/userguide.html>. You will not, and will not allow anyone else to, open, tamper with or reverse engineer, decompile or disassemble your VUDU Device(s) (or any software contained within) or make any modifications, additions, attachments or alterations to the VUDU Device(s) (or any software contained within). Additionally, you agree not to, or attempt to, disclose or circumvent any security measures utilized as part of the VUDU Service or VUDU Device(s) (or the software contained within). You understand and acknowledge that the VUDU Service and VUDU Devices (or the software contained within) incorporate and utilize propriety technologies, materials and Content of VUDU, the Content Providers and other third-party licensors that are protected by copyright, patent, trade secret and other laws and that any use or disclosure of the VUDU Service, Content or VUDU Devices (or the software within) contrary to these Terms of Service or any copying of the materials and/or Content residing in the VUDU Devices will result in substantial damages to us or our licensors and subject you to civil liabilities and/or criminal penalties. The software contained within VUDU Devices uses libraries from the FFmpeg project under the LGPLv2.1. VUDU does not own FFmpeg. Information on FFmpeg and the LGPLv2.1, including ownership and usage, can be found at <http://ffmpeg.org>. The restrictions on reverse engineering set forth in these Terms of Service do not apply to FFmpeg.

Age Restrictions and Parental Control:

While VUDU does distribute Content that may be watched by children, if you are under the age of 18, you may access and use the VUDU Service only under the supervision of a parent or legal guardian who agrees to be bound by these Terms of Service. VUDU is relying on your representation that you are at least 18 years of age. VUDU would not allow you to enter these Terms of Service and would not allow you to access the VUDU Service but for your representation that you are at least 18 years of age. VUDU does not intentionally or knowingly collect personal information about children under the age of 13. If you are a parent or legal guardian entering into these Terms of Service for the benefit of a child under the age of 18, be advised that you are fully responsible for his or her use of the VUDU Service, including all financial charges and legal liability that he or she may incur. You are responsible for the viewing selections of your children, and VUDU shall have no liability whatsoever if your child, through mistake or otherwise, views Content that may be deemed objectionable to you or your child. If you do not agree to (or cannot comply with) any of these terms and conditions, do not use the VUDU Service.

The VUDU Service includes a parental control feature that lets you restrict access to certain Content based on the rating system of the Motion Picture Association of America. You can access Parental controls in your account profile.

Digital Millennium Copyright Act:

If you are a copyright owner or an agent thereof and believe that any Content, user submission or other content infringes upon your copyrights, you may submit a notification pursuant to the Digital Millennium Copyright Act ("DMCA") by providing our Copyright Agent with the following information in writing (see 17 U.S.C. § 512(c)(3) for further details):

A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;

Identification of the copyrighted work claimed to have been infringed;

Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled and information reasonably sufficient to permit us to locate the material;

Information reasonably sufficient to permit us to contact you, such as an address, telephone number, and, if available, an e-mail address;

A statement that you have a good-faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent or the law; and

A statement that the information in the notification is accurate and, under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

Our designated Copyright Agent to receive notifications of claimed infringement is: Copyright Agent, VUDU, Inc., 600 West California Avenue, Sunnyvale, CA 94086; e-mail to: dmca@vudu.com; or fax to: (408) 588-4080. For clarity, only DMCA notices should go to the Copyright Agent; any other feedback, comments, requests for technical support and other communications should be directed to VUDU Customer Care at support@vudu.com. You acknowledge that if you fail to comply with all of the requirements of this Section, your DMCA notice may not be valid.

If you believe that content or a Submission of yours that was removed (or to which access was disabled) is not infringing, or that you have the authorization from the copyright owner or the copyright owner's agent, or pursuant to the law, to post and use such content or Submission, you may send a counter-notice containing the following information to the Copyright Agent:

Your physical or electronic signature;

Identification of the content that has been removed or to which access has been disabled and the location at which the content appeared before it was removed or disabled;

A statement that you have a good-faith belief that the content was removed or disabled as a result of a mistake or a misidentification of the content; and

Your name, address, telephone number and e-mail address, a statement that you consent to the jurisdiction of the federal court in Santa Clara County, California, and a statement that you will accept service of process from the person who provided notification of the alleged infringement.

If a counter-notice is received by the Copyright Agent, we may send a copy of the counter-notice to the original complaining party informing that person that the removed content may be replaced or no longer disabled in 10 business days.

Unless the copyright owner files an action seeking a court order against the content provider, member or user, the removed content may be replaced, or access to it restored, in 10 to 14 business days or more after receipt of the counter-notice, at our sole discretion.

Links to Third Party Websites:

The VUDU Website may contain links to third-party sites which are not under our control, and we are not responsible for the contents of any linked site or any link contained in a linked site, or any changes or updates to such sites. We are providing these links to you only as a convenience, and the inclusion of any link does not imply that we endorse or accept any responsibility for the content on such third-party site.

Warranty Disclaimer; Limitation of Damages and Liability:

THE VUDU DEVICES, VUDU SERVICE AND CONTENT ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND. NEITHER VUDU NOR THE CONTENT PROVIDERS MAKE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND AS TO THE VUDU DEVICES, VUDU SERVICE OR CONTENT MADE AVAILABLE THROUGH THE VUDU SERVICE OR THAT THE VUDU DEVICES, VUDU CONTENT OR VUDU SERVICE WILL MEET YOUR REQUIREMENTS OR BE UNINTERRUPTED, ERROR-FREE OR FREE FROM VIRUSES, INTERFERENCE, HACKING OR OTHER SECURITY INTRUSION, AND VUDU AND CONTENT PROVIDERS DISCLAIM ANY LIABILITY RELATING THERETO. NEITHER WE NOR THE CONTENT PROVIDERS ASSUME ANY LIABILITY FOR ERRORS OR OMISSIONS IN THE VUDU DEVICES, VUDU SERVICE, CONTENT OR CONTENT OF THE VUDU WEB SITE OR ANY LOSSES OR DAMAGES ARISING FROM THE USE OF THE VUDU DEVICES, VUDU SERVICE, CONTENT OR VUDU WEBSITE. YOU AGREE THAT VUDU MAY ELIMINATE OR OTHERWISE MODIFY ANY OR ALL ASPECTS OF THE VUDU SERVICE, VUDU COMMUNITY AND VUDU COMMUNITY FEATURES OR ANY OTHER ASPECTS OF THE VUDU SERVICE AT

ANYTIME, WITHOUT COMPENSATION OR NOTICE TO YOU. VUDU'S SOLE OBLIGATION FOR ANY MALFUNCTIONING VUDU DEVICES SHALL BE AS SET FORTH IN VUDU'S PUBLISHED LIMITED WARRANTY AGREEMENT. YOU AGREE THAT NO OTHER EXPRESS OR IMPLIED WARRANTIES WILL APPLY TO THE VUDU SERVICE OR VUDU DEVICES, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN ADDITION, VUDU AND THE CONTENT PROVIDERS DISCLAIM ANY WARRANTIES OF SATISFACTORY QUALITY, NON-INFRINGEMENT, TITLE OR QUIET ENJOYMENT AND THEIR EQUIVALENTS UNDER THE LAWS OF ANY JURISDICTION. TO THE MAXIMUM EXTENT PERMISSIBLE UNDER APPLICABLE LAW, UNDER NO CIRCUMSTANCES INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE BY VUDU OR CONTENT PROVIDERS, SHALL VUDU, CONTENT PROVIDERS OR ANY OF THEIR OR VUDU'S DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, AGENTS OR LICENSORS BE LIABLE FOR ANY DIRECT, CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES, BASED UPON A CLAIM OF ANY TYPE OR NATURE (INCLUDING, BUT NOT LIMITED TO, CONTRACT AND TORT, INCLUDING NEGLIGENCE, WARRANTY OR STRICT LIABILITY) OR CLAIMS ARISING FROM ANY OF THE FOLLOWING: (i) ANY INABILITY TO USE THE VUDU DEVICES OR USE OR ACCESS THE VUDU SERVICE OR CONTENT; (ii) THE TERMINATION OF THE VUDU SERVICE; (iii) THE INSTALLATION, INSPECTION, REPAIR, REPLACEMENT OR REMOVAL OF YOUR VUDU DEVICES, (iv) ERRORS OR OMISSIONS IN THE CONTENT; OR (v) ANY FAILURES, DELAYS OR INTERRUPTIONS IN THE AVAILABILITY OF THE VUDU SERVICE AND/OR WEBSITE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME STATES AND JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY, THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. IN NO EVENT SHALL VUDU'S OR CONTENT PROVIDERS' TOTAL LIABILITY TO YOU FOR ANY AND ALL DAMAGES ARISING FROM THE USE OR INABILITY TO USE THE VUDU WEBSITE, VUDU SERVICE, VUDU DEVICES OR CONTENT, INCLUDING ANY FEATURES ASSOCIATED THEREWITH (OTHER THAN AS MAY BE REQUIRED BY APPLICABLE LAW IN CASES INVOLVING PERSONAL INJURY) EXCEED THE FEES PAID BY YOU DURING THE SIX MONTH PERIOD PRECEDING THE DATE ON WHICH THE CLAIM AROSE. THE FOREGOING LIMITATIONS APPLY EVEN IF THE REMEDIES DESCRIBED ABOVE FAIL OF THEIR ESSENTIAL PURPOSE. IF ANY APPLICABLE AUTHORITY HOLDS ANY PORTION OF THIS SECTION TO BE UNENFORCEABLE, THEN LIABILITY WILL BE LIMITED TO THE FULLEST EXTENT OF APPLICABLE LAW.

Injunctive Relief:

You agree that any violation or breach by you of these Terms of Service will result in irreparable harm to us, and that monetary damages will be an inadequate remedy, and you hereby agree that we shall be entitled to seek injunctive relief.

Severability:

If any provision of these Terms of Service is deemed unlawful, void or for any reason unenforceable, then that provision shall be severable from these Terms of Service and shall not affect the validity and enforceability of any remaining provisions.

Governing Law, Determination of Disputes:

This Agreement shall be governed by, and construed in accordance with, the laws of the State of California without giving effect to any principles of conflicts of law. EACH PARTY HEREBY WAIVES THE RIGHT TO TRIAL BY JURY. Any dispute arising out of, or in connection with, this Agreement shall be submitted to the Superior Court in and for the County of Santa Clara, State of California (or if the Superior Court shall not have jurisdiction over the subject matter thereof, then to such other court sitting in said county and having subject matter jurisdiction) for trial and determination by the court. Said parties hereby consent to the exclusive jurisdiction of such court and to the service of process by mail outside the State of California pursuant to the requirements of such court in any matter so to be submitted to it. Content Providers are third party beneficiaries of these Terms of Service and may enforce these Terms of Service, at law or in equity, with respect to Content or any other materials provided by it.

Mobile Device Communications:

By creating a new account with a phone number or adding a phone number to an existing account, you consent to receiving communications, which may include phone calls or SMS messages, from VUDU regarding your account and VUDU offerings, . You agree that you are the primary owner of such phone number and that the information provided is accurate. Standard message and data rates may apply. Messages will be sent from an automatic telephone dialing system and messages may include an artificial or pre-recorded voice. Your agreement to receive such messages is not a condition of purchase or required to receive services.

You may opt out of receiving SMS and telephone communications from VUDU at any time by texting the word 'STOP' to MyVUDU (698838) and VUDU will send you a single SMS text message indicating that you will no longer receive any SMS or telephone communication from VUDU. For additional help, you

can text 'HELP' to MyVUDU (698838) or email customer support at support@vudu.com. For information about email communications and preferences, refer to the Privacy Policy.

To opt out of communications regarding the InstaWatch program, as well as Walmart's Savings Catcher and e-Receipts, text the word 'STOP' to (63257) and Walmart will send you a single SMS text message indicating you will no longer receive SMS or telephone communications regarding these programs.

Current Supported carriers include: ACS Wireless, AIO Wireless, AT&T, Bluegrass Cellular, Boost, Carolina West Wireless, Cellcom, Cellular One, Cellular One of East Central Illinois, Cellular South, Chat Mobility, Cincinnati Bell, Cricket, ECIT, Element Wireless, GCI, Golden State Cellular, Illinois Valley, Immix Wireless, Inland Cellular, iWireless, LongLines Wireless, MetroPCS, Nex-Tech, Northwest Missouri Cellular, NTelos, Plateau Wireless, PTCI, Sprint, T-Mobile, Thumb Cellular, U.S. Cellular, Verizon Wireless, Virgin Mobile USA, West Central Wireless and other carriers that may be added from time to time. SMS communications may not be compatible with all handsets.

Additionally information regarding VUDU's privacy practices can be accessed at:
<http://www.vudu.com/privacypolicy.html>.

Indemnity:

You agree to indemnify, defend and hold VUDU and its affiliates, officers, agents, co-branders, licensors, partners and employees harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of your use of the VUDU Website, VUDU Service or VUDU Devices or participating in any of the foregoing programs offered by VUDU herein, including, without limitation, your violation of these Terms of Service or your violation of any rights of another.

PLEASE DIRECT ANY QUESTIONS OR CONCERNS RELATED TO YOUR BILLS OR SERVICE TO:
support@vudu.com

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